Indians such power has not been questioned. N. Y. Cons. Laws, 1909, ch. 26, sec. 54; *George v. Pierce* (1914, Sup. Ct.) 85 Misc. 105, 148 N. Y. Supp. 230. The law recognizing the jurisdiction of the peacemakers' court seems to be declaratory of an existing rule. See *Peters v. Tallchief* (1907) 121 App. Div. 309, 106 N. Y. Supp. 64. This court has been recognized recently by a federal court. *United States v. Seneca Indians* (1921, W. D. N. Y.) 274 Fed. 946, 949. It follows that the state court has only such jurisdiction over Indian affairs as is given by the statute. Since the jurisdiction of the state court is supplementary to that of the peacemakers' court, the allegation by the plaintiff that she resided "outside the territorial jurisdiction of the peacemakers' court" amounted to no more than an opinion that the state court had jurisdiction. In claiming a cause of action under an exception incorporated in the body of a statute, the plaintiff should have negatived the jurisdiction of the peacemakers' court. *Rowell v. Janvrin* (1896) 151 N. Y. 60, 66, 45 N. E. 398, 400.

MARTIAL LAW—EXTENT OF POWER OF GOVERNOR TO DECLARE ITS EXISTENCE.—The Governor of West Virginia proclaimed martial law in Mingo County. The petitioner was arrested for carrying a pistol contrary to orders in the Governor's proclamation, although he was duly licensed to do so by the civil authorities. At the time of the arrest there was no regular military force in Mingo County, but the Adjutant-General, holding a military commission, directed the civil authorities and the *posse comitatus*. The petitioner obtained a writ of habeas corpus. *Held*, that the writ should be sustained, as there was no regular military force in the territory covered by the proclamation. Miller, J., *dissenting*. *Ex parte Lavinder* (1921, W. Va.) 108 S. E. 428.

The governor of a state is the sole judge of conditions requiring a declaration of martial law. *Franks v. Smith* (1911) 142 Ky. 232, 134 S. W. 484; *In re McDonald* (1914) 49 Mont. 454, 143 Pac. 947. But the extent of this power is not settled. See Ballantine, *Unconstitutional Claims of Military Authority* (1915) 24 YALE LAW JOURNAL, 189; Lobb, *Civil Authority Verus Military* (1919) 4 VA. L. REG. 897. He may suspend the civil laws until the exigency is over. *In re Boyle* (1899) 6 Idaho, 609, 57 Pac. 706; *In re Moyer* (1905) 35 Colo. 159, 85 Pac. 190; *United States v. Wolters* (1920, S. D. Tex.) 268 Fed. 69. This is not a denial of due process under the Fourteenth Amendment. *Moyer v. Peabody* (1909) 212 U. S. 78, 29 Sup. Ct. 235. It is also held that the governor and those who act under his authority are not responsible civilly or criminally for acts done while martial law is in effect. *Hatfield v. Graham* (1914) 73 W. Va. 759, 81 S. E. 533; *In re Moyer, supra; Commonwealth v. Shortall* (1903) 206 Pa. 165, 55 Atl. 952. Some West Virginia cases have even held that persons may be arrested outside the zone of martial law and that they may be tried by a military commission, although the civil courts are still open. *Ex parte Jones* (1913) 71 W. Va. 567, 77 S. E. 1029; *State v. Brown* (1912) 71 W. Va. 519, 77 S. E. 243. But there are well-reasoned cases holding that the governor in declaring martial law acts merely as a civil officer of the state and that he must direct the military forces in accordance with the civil laws. *Franks v. Smith, supra; In re McDonald, supra;* cf. 2 Willoughby, *The Constitution* (1910) sec. 727. The decision in the instant case seems to indicate a tendency to depart from former West Virginia decisions. The restriction of the power to a time when a regular military force is in the field is desirable and it is hoped that it may aid in the ultimate adoption as general law of the able dissenting opinions in the extreme West Virginia cases. For proposed legislative reform see Ballantine, *Qualified Martial Law, A Legislative Proposal* (1915-1916) 14 MICH. L. REV. 102, 197.

PERSONS—RIGHT OF MOTHER TO RECOVER FOR DEATH OF ILLEGITIMATE CHILD.—An action was brought by the state on behalf of the mother of an illegitimate